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The Politics of Normative Intervention and the Special Tribunal for Lebanon

Michelle Burgis-Kasthala^a and Adham Saouli^b

^aSchool of Law, The University of Edinburgh, Edinburgh, UK; ^bSchool of International Relations, University of St Andrews, St Andrews, UK

ABSTRACT

Lebanon's turbulent history has seen many political assassinations, but only one, the assassination of PM Rafic Hariri, led to the establishment of an international tribunal – The Special Tribunal for Lebanon (STL) – in 2009. Why was the STL created? This study suggests that the creation of the STL constituted a 'normative intervention': purposeful attempts by domestic and international actors to transmit norms and institutions to a country to realize political goals. Normative interventions, particularly in divided societies, trigger 'normative contestations', which are shaped by the identities and interests of various actors. The result reveals that normative interventions deepen existing political cleavages.

KEYWORDS

Special Tribunal for Lebanon (STL); Lebanon; Hizbullah; normative intervention; assassination

Introduction

On 14 February 2005, the former Prime Minister of Lebanon, Rafiq Hariri and 21 bystanders were killed when a massive, highly sophisticated explosion destroyed his motorcade driving through downtown Beirut. Lebanon's troubled political history has seen presidents, prime ministers, ministers, parliamentarians, party leaders, journalists, and writers killed, particularly during its fifteen-year long civil war (Mugraby 2008, 176). While political assassination is not unique, this was the first to trigger the establishment of an international criminal tribunal (ICT) in 2009: The Special Tribunal for Lebanon (STL). Given a recent past replete with far more devastating and still unaddressed crimes in the face of 'state-sponsored amnesia' (Knudsen and Hanafi 2013, 176–200), why was this tribunal created? Why was debate over the STL so central to and explosive for Lebanese political rivalries between 2004 and 2011?

The development and expansion of international criminal justice norms and institutions since the 1990s partly explains the willingness of the United Nations Security Council (UNSC) acting under Chapter VII of the United Nations Charter (UNC) to create a commission of inquiry (UNIIIC) and then a tribunal that would provide capacity for a deadlocked Lebanese polity. Regionally, of course, the post-colonial Arab world had been no stranger to interventions, but these have typically been military or economic in

CONTACT Michelle Burgis-Kasthala  m.burgis-kasthala@ed.ac.uk

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nature. This instance, however, which places the STL's jurisdiction above that of the Lebanese state, remains the most pronounced regional example of what we treat here as an 'international normative intervention'. This normative intervention originated in the context of the United States (US)-led strategy in 2003–5 to weaken and isolate the Syrian regime, which had controlled Lebanon since 1990. But this strategy generated resistance from America's rivals in Lebanon, namely Hizbullah, and provoked normative contestation over the legitimacy of the STL. The aim of this study is to examine the nature of this normative intervention and to understand the contestation it generated in Lebanon.

The core theoretical component of our discussion emerges from and responds to extant IR approaches to the study of 'norm diffusion'. We examine how and why a certain set of international norms and institutional practices travel to, shape, and are reshaped by the politics of Lebanon as a divided society. The process we examine emphasizes the role of both international and domestic actors as transmitters and supporters or challengers of such international norms. These transmitted norms purportedly embodied in the STL included individual criminal responsibility under international law, international best practices of investigation and trial procedure, as well as terrorism as a crime under international customary law that certain Lebanese actors promoted to punish their rivals. Yet the process of normative intervention goes beyond transmission: we show how domestic actors negotiate, reframe, and, sometimes, reject international norms because of extant political interests. Yet, the STL's detractors, especially Hizbullah, could not simply reject its mandate. Rather, this normative intervention triggered domestic political and normative contestations that centred on the extent to which the STL threatened or bolstered Lebanese sovereignty.

The example of Lebanon as a divided society provides interesting theoretical and empirical avenues that question the dominant approaches of 'norm diffusion' to and socialization of unitary states in international relations. While we show how the evolution of normative intervention remains open and contested at both the international and domestic levels, our focus here is on the domestic context. In the case of divided societies, political debates occurring in the tumult of a crisis, such as Hariri's killing, will bring the very nature of the state's identity and interests into question. This was inevitable in the case of the STL, which sought to affirm domestic legal capacity through the paradoxical removal of prosecutorial powers from Lebanese soil. Was this an assault on Lebanese sovereignty or its affirmation? Divided and divisive readings of Lebanon's historical experience of foreign intervention inform our answer to this question. In seeking to understand the possible effects of normative intervention, our theoretical framework demonstrates the need to explore the constrained discursive agency of domestic political actors in their (re)framing of international and internationalized domestic norms (Barnett 1999, 8).

The study comprises three sections. First, we set up our framework of normative intervention. Second, we discuss the domestic and regional political context to identify the major actors who sought to promote certain international norms and institutions associated with the STL. In the final section, we draw on primary data (press conferences, speeches, interviews, and UN and STL documents) to show how various actors strategically framed and interpreted the STL by invoking legal, normative, and political discourses as they advanced their case in support (Hariri's Future Movement) or rejection (Hizbullah) of the STL. The empirical case centres on how Lebanese contests over the Tribunal's

legitimacy were an opportunity to recreate understandings about the meaning of Lebanese sovereignty. We conclude by arguing that rather than assist in the realization of political stability and domestic legal capacity, normative interventions and their attendant normative contestations tend to deepen political cleavages – especially for divided societies, such as Lebanon's.

The politics of normative intervention

We suggest that the establishment of the STL constitutes an 'international normative intervention'. In understanding normative interventions, we build on approaches to norm diffusion in International Relations. We take norms to mean the 'shared (social) understandings of standards for behaviour' (Abboud and Muller 2013). Norms constitute and constrain behaviour: they provide an interpretative frame for a given situation requiring certain behaviour as a result. They carry with them a sense of legitimate social *obligation* (Abboud and Muller 2013; Wiener 2014, 3) and inspire rules that are the content of law: rights and obligations as guaranteed within a specific legal system, whether international (such as the Rome Statute of the International Criminal Court (ICC)) or domestic (such as Lebanon's criminal justice system). However, norms will only be recognized as standards to follow once relevant political agents are persuaded of their suitability or appropriateness, along moral or practical lines (March and Olsen 2008).

The transmission of international norms to domestic contexts has generated a range of approaches within international relations scholarship. Early scholarship focussed on norm 'life cycles' (Finnemore and Sikkink 1998) or 'norm diffusion' which tends to consider how an international standard emerges and is then carried by norm entrepreneurs to the domestic level, often through a sophisticated persuasive strategy of aligning national interests with the purported norm (Hirsch 2014, 814). For example, in their influential book, *Activists Beyond Borders*, Finnemore and Sikkink are concerned with tracing the mobilizing effect of advocacy about bodily harm and legal equality of opportunity (Finnemore and Sikkink 1998). They argue that these norms can rally supporters to form transnational advocacy networks. Norm entrepreneurs within such networks work to persuade governments about the need for domestic policy change. Although conceding some scope for cultural diversity, they argue that consensus around 'human dignity' transcends particularity and is a powerful resource for social change (Finnemore and Sikkink 1998, 205). A similar focus on 'human dignity' animates Teitel's *Humanity Law*, a narrative about an ever more robust practice of claim-making for individual protection, whether within or beyond the state and typically as championed by courts (Teitel 2011).

While we note these contributions, our study builds on a 'second wave' of more critical norm research which questions some key dimensions of this work (Acharya 2004, 240). First, collectively, standard 'norm diffusion' approaches follow progress narratives based on liberal ideologies (Bloomfield 2015, 4; Epstein 2012, 136) recounting how (good, cosmopolitan) norms flow to (local, particular, often non-Western) actors (Dunford 2015) through conversion rather than contestation (Acharya 2004, 242). Authors do note the importance of understanding the particular norm and context at hand, but the 'unidirectional' (Zimmermann 2017, 873), teleological (Bloomfield 2015, 4; Bucher 2014, 751–752) and moralizing thrust is palpable, where the scope for non-Western norms becoming globalized seems limited (Dunford 2015). While some of the

literature has considered this through the concept of localization (Acharya 2004) or appropriation (Zimmermann, Deitelhoff, and Lesch 2017, 695–697), our framework pushes this further within the context of a divided society.

Second, the agency of ‘transnational’ norm entrepreneurs is crucial in the dominant approaches within the norm cycle literature. Yet in focusing on how norm entrepreneurs carry international norms to the domestic level, scholars tend to treat the content of the norm as settled because of ‘shared understandings’ (Niemann and Schillinger 2016, 29; Bloomfield 2015, 4). Like other later work, we want to pause and consider simply the process of contestation itself as a valuable theoretical and empirical concern within a given domestic, political context as developed further below (Zimmermann 2016, 98–107). This, moreover, leads us to question the imagery of ‘diffusion’ ‘and ‘cascade’ (especially see Kim and Sikkink 2013) that is used in the literature as it is redolent of inevitability and tends to construct (especially developing) states as passive norm recipients (Capie 2008, 639). In contrast to a focus on transnational norm entrepreneurs, second wave scholarship stresses the need to consider agency at the domestic level (Acharya 2004; Checkel 1999; Wiener 2018) in bringing about acceptance, modification, localization or rejection of a norm.

Third, while many second wave scholars have stressed the importance of exploring the particularities of a given domestic setting, overwhelmingly the (developing) state is presented as relatively unitary (for example Acharya 2004; Niemann and Schillinger 2016; Sandholtz 2008; Sharman 2008, 639). In her recent work, Wiener has challenged such state-centricity by calling for an exploration of global/local norm dynamics that do not simply equate to the global/state-level; instead, we can open up the state to ‘cultural diversity’ (Wiener 2018). Such an emphasis on culture is especially evident in Checkel’s exploration of the ‘cultural match’ between international norms and their domestic reception (Checkel 1999). He categorizes domestic orders into four types and notes that norms are easier to absorb in states less prone to political contestation, namely statist and state-above-society variants. Yet for corporatist states, of which Lebanon is an example, societal pressures will play an important role in facilitating the possibility of norm empowerment (Checkel 1999, 89–90), thus calling for thick accounts of domestic contexts.

While the work of Wiener and Checkel is important, normative intervention in Lebanon’s deeply divided society (Knudsen and Hanafi 2013) warrants a more sustained exploration beyond a standard corporatist model. Deeply divided societies are composed of communities with different cultural, religious, linguistic, racial, or religious identities that interact within a territorial state. These cleavages are politicized when actors within the communities mobilize followers to achieve certain *political* goals, which are usually related to the nature of political order, identity of the state, or foreign policy (Lustick 1979; Saouli 2019). This has important implications in understanding normative diffusion and intervention in a divided society, particularly as each Lebanese actor constructed and promoted its own understanding of sovereignty as it sought to either promote or undermine the STL.

We define normative intervention as the purposeful attempts by political actors (domestic, international, or both working in concert) to (re)frame and impose international norms or institutions in domestic settings with the aim of creating the discursive, legal, and institutional conditions that enable the realization of political goals. The idea of ‘intervention’ stresses the importance of power and inequality in studying norms (Epstein

2012), which is crucial when thinking about developing states such as Lebanon with their sustained historical experiences of state (re-) building (Saouli 2012) and (neo)colonial intervention and domination (Inayatullah and Blaney 2012, 169).

Our framework rests on several assumptions. First, we note the presence of political actors with established identities and interests. These actors seek to invoke, transmit, internalize or debunk a norm to realize a political goal, usually targeting their domestic or international rivals; they are the progenitors of the normative intervention. By invoking certain norms, progenitors of an intervention try to alter the ‘communicative environment’ (Payne 2001, 39; Sharman 2008). What a normative intervention targets is an opponent’s ‘subjectivity rather than physicality’ (Bially-Mattern 2005, 602), by pointing to contradictions and inconsistencies in their professed public commitments (Bially-Mattern 2005, 603). The politics of normative intervention is, thus, about political actors acting as norm exemplars – such as championing Lebanese sovereignty or international accountability – with the aim of achieving political goals.

Second, we suggest that intervention will trigger a reaction from political rivals causing ‘normative contestation’, which Wiener defines as ‘the societal practice ... [which] critically questions societal rules, regulations or procedures by engaging multiple codes in non-formal environments.’ (Wiener 2014, 2). While we note that Wiener’s scholarship is foundational for understanding contestation (Deitelhoff and Zimmermann 2020), we concur with a small group of scholars pushing for greater consideration of resistance (especially Bloomfield 2015; Capie 2008; Epstein 2012) in contexts where no shared normative understanding or reconciliation can be assumed (Niemann and Schillinger 2016, 47–48). For example, while Acharya (2004) illustrates how domestic Asian societies do not necessarily share the same worldview as transnational norm entrepreneurs, his model suggests a shared domestic normative order. We argue that this is not the case for Lebanon as well as other divided societies, and so requires a deeper consideration of the domestic process of contestation in the wake of a normative intervention. The creation of the STL cannot be understood simply as Lebanon accepting specific ‘rule of law’ norms; it was also a normative contest over how to frame and define Lebanese *sovereignty* through a range of international and national legal idioms. Political detractors could not simply reject the STL as this might have undermined their legitimacy as ‘lawful’ actors; thus, they had to promote their (political) interests through normative contestation. This involved attempts by both camps to justify their stance using legalized arguments that centred on not only technical aspects of the STL’s creation, but on what it means to champion Lebanese sovereignty.

Third, and in addition to the presence of political rivals, the necessity for normative contestation derives from the presence of a third party: the public, as a politically latent audience. The resort to normative, *public* contestations by political actors is telling, for it contributes to their legitimacy in the eyes of the polity and, ultimately, to their political survival. Thus, in attempting to convince the public, political actors invest in speeches and performances to frame events in ways that resonate not only with their interests, but also with the public’s cultural and political expectations and values (Krebs and Jackson 2007, 43–44). Framing ‘provides the sorts of shared meaning necessary to facilitate social mobilisation’ (Schwedler 2005, 162). This is especially important during periods of national crisis, as our case-studies shows. During such crises, ‘political entrepreneurs must construct frames that are able to reconcile these contradictions, to

situate these events in ways that mesh with the cultural terrain, or to recast the relationship between the cultural foundations, the costs and benefits of particular policies and the circumstances at hand' (Barnett 1999, 15). The collection of performances and speeches amount to competing 'representations' of reality that are communicated to an audience: 'the most efficacious communicative strategy will be one that leaves the audience *no* room to refuse; it will seek to boldly defeat alternatives without hesitation, engagement, discussion, or physical antics' (Bially-Mattern 2005, 610; also see Krebs and Jackson 2007).

Fourth, normative interventions and contestations do not take place in a socio-political void; rather, they shape and are in turn reshaped by the existing social order. Normative contestations in contexts of deep political crisis shape and condition the behaviour of political actors, ignite questions about identity and interest, and raise queries about the 'right' course a society should pursue. This is particularly salient when political stakes are high, as in divided societies (Lustick 1979). In the case of Lebanon, the international investigation of Hariri's assassination and the establishment of the STL aimed to deter future assassinations and to nurture certain legal standards that Lebanon's supposedly weak judicial system lacked. But, more crucially, the establishment of the STL was also a continuation of politics in other legalized registers: its domestic and international proponents hoped to punish the alleged killer, Syria, and to defeat Syria's ally, Hizbullah (Van Kersbergen and Verbeek 2007, 235). Domestic divisions in Lebanon and its geopolitical location in a highly penetrated regional system have historically made the country extremely vulnerable to external infiltration (Saouli 2006). Lebanon has experienced a range of political, economic, and military interventions. Here, we look at another form of infiltration – normative intervention.

The case-study reveals that normative contestations in periods of national crisis and divided societies often end up 'diluting' the desired effects of certain international institutions and standards. Paradoxically, the creation of the STL rather than strengthening Lebanese institutions, only deepened existing divisions over the nature of Lebanese sovereignty. These battles over the legitimacy of such impositions do not lead to a clear 'winner' or 'loser', as ultimately, in this case, the STL's creation was a form of normative intervention that was successfully deflected through sustained normative contestation. Opponents of the STL, especially Hezbollah, used often highly legalized speech to discredit the Tribunal and to strip it of much of its legitimacy.

Our framework offers several theoretical advantages: it highlights the role of agents as carriers and interpreters of norms; it locates agents within specific socio-political contexts, thus showing how structures constrain actors; it emphasizes the role of norms as both enabling and constraining factors in political rivalries; and it offers a more concrete basis for the transmission and internalization of norms at the domestic level. While normative intervention is an international, transnational and domestic phenomenon, our focus here is on the domestic contestation that occurred in Lebanon over the imposition of the STL. This focus is important given that the main goal of the Tribunal was to overcome domestic divisions and bring about accountability and reconciliation. We suggest that the results thus far remain far from such aspirations. Instead, the STL has contributed to further destabilization through the degree of contestation – largely discursive, but also physically violent – that has taken place.

The methodology of discourse analysis that we use here traces normative contestation empirically through examining discursive domestic battles that ensued after the STL's

creation between 2009 and 2011. During this inception phase of the STL, Lebanese political actors engaged in unprecedented legalized debates through highly public, televised speeches, and debates. We read these texts within the broader context of the STL as normative contestation over how Lebanon should be governed. Exploring the imagery deployed in such discourse is important, as Bucher notes, to ‘pay attention not only to *what* is being said in discourse, but to *how* it is said, *by* and *to whom* it is said, and in what *context*’ (Bucher 2014, 747, emphasis in original). We supplement our contextual reading of this discourse with interviews conducted in Beirut in 2010 with some key supporters and detractors of the Tribunal as well as UN documents, speeches, parliamentary conferences, and Nassrallah’s dedicated televised conferences.

The Special Tribunal for Lebanon

Political crisis in a divided society

Since its founding in 1920, Lebanon has been one of the most unstable states in the Middle East. A combination of domestic and external factors has made this small state vulnerable to regional power shifts. Lebanon’s religious pluralism (Lebanon is home to seventeen Christian and Muslim sectarian communities) and its consociational (or corporatist) political system have kept its various sectarian communities in a state of rivalry. For most of its modern history, Lebanon’s consociational democracy has guaranteed a level of representation and power-sharing for the country’s religious communities. It also guaranteed their freedoms. But the system also encouraged several weaknesses, relating to the country’s national identity (Arab versus Lebanese), foreign policy orientation (Arab versus Western), and the basis of its power-sharing formula: until 1990, Christians held the most parliamentary and ministerial seats even though Muslims were in the majority.

Lebanon’s geopolitical location, neighbouring Syria from the north and east and Israel from the south, has made it either a potential buffer state to contain regional rivalries or a battleground to vent them. The combination of domestic rivalries and geopolitical location has exposed Lebanon to various political shocks, generating civil wars almost every fifteen years (particularly those in 1958, 1975–90, and the 2005–15 domestic conflicts) (Saouli 2006).

1990 marked the end of Lebanon’s last and most bloody civil war. In 1990, Syria agreed to support the US invasion of Iraq in return for political and military control of Lebanon. Syria’s occupation of Lebanon generated relative stability and enabled the institutionalization of the Ta’if Accord. The resulting constitution transferred Lebanese political power in favour of the Muslims, giving them equal political representation and shifted executive power from the Presidency (held by a Christian) to the Government (led by a Sunni-Muslim) (Jiha 1998). Key Christian leaders paid a heavy political price: many were either exiled or imprisoned. Among the main Muslim leaders was the Sunni Rafiq Hariri, who presided over most governments in the post-war period, 1992–2005. Hariri enjoyed strong support domestically from his Sunni social base and externally from Saudi Arabia and the US.

The pillars of Lebanon’s stability in the period 1990–2005 began to shake, however, when the US invaded Iraq for a second time in 2003. Syria (and Iran) feared that a

stable US presence in Iraq would spill over into Syria, either by precipitating regime change in Damascus or by pressuring the Syrian Ba'ath regime to alter its stance vis-à-vis the Arab-Israeli conflict (Hinnebusch 2006). In 2004, the US and France sponsored UNSC Resolution 1559, which called for the withdrawal of all 'foreign forces' from Lebanon (meaning, Syria), along with the disbanding and disarmament of all Lebanese and non-Lebanese militias' (UNSC, 2004, 1), which meant Hizbullah.

The resolution had a direct impact on Lebanon's fragile political balance (Saouli 2006, 712–714). Syria's Lebanese allies rejected Resolution 1559, characterizing it as a threat to Lebanese sovereignty; but its enemies regarded it as an opportunity to undermine Syria's power and eventually expel it from Lebanon. Whilst the Christian opposition stood against Syria and the Shi'ite Muslims expressed clear support for it, the main group in the centre was the Sunni Muslims, led by Rafiq Hariri. Despite Hariri's strong ties with Syria for most of the 1990s, relations with Damascus began to deteriorate after the coming to power of Hafez Assad's son, Bashar in 2000. Hariri's equivocal stance in relation to Resolution 1559 exposed him to the political abuse of Syria's allies in Lebanon, who accused him of 'engineering' Resolution 1559 and of 'conspiring' against Syria (Saouli 2006).

In this fraught political context, on February 14, 2005, Hariri was assassinated. The assassination, which occurred within a polity already in the throes of a deep political crisis, set the course for the normative intervention. Here we observe how domestic actors with entrenched interests and identities responded in varying ways to the assassination. The pro-Syrian forces, led by Hizbullah, organized a demonstration on March 8 rejecting Resolution 1559 and the internationalization of the assassination. The anti-Syrian camp organized a counter demonstration on March 14, calling for Syrian withdrawal from Lebanon and for an international investigation. This period 2005–11 would first trigger a normative intervention and then a normative contestation within Lebanon between the two camps, March 8 and March 14.

Normative intervention: Forming the STL

We suggest that normative interventions are purposeful acts that seek to transmit norms and institutions to a domestic setting to realize specific political goals. Lebanon's divided society and the Hariri assassination in 2005 enabled such a normative intervention. The assassination occurred within an international context increasingly suspect of amnesty laws as well as increasingly supportive of far more interventionist responses at least for certain large-scale crimes. In the 1990s, the UNSC created the ICTs for Yugoslavia and Rwanda. Their contributions to international criminal justice have informed all subsequent tribunals, including the International Criminal Court, hybrid tribunals, as well as the STL itself (STL 2017, para. 108).

Typically, ICTs are concerned with only the most serious international crimes, which have tended to occur during civil wars. While Lebanon's own civil war of 1975–90 could have provided more than enough material to inform atrocity trials, instead, it was the relatively minor crime of Hariri's assassination that led to the creation of the STL, which highlights the political basis of the normative intervention. This required the framing of the killing as an internationally significant incident deserving of UNSC intervention. The small number of victims in this case was counterbalanced by Hariri's stature and

the projected ramifications of his death, which generated a ‘political earthquake’ (Knudsen 2012, 223) domestically, regionally and internationally. Almost immediately, France and the US called for a decisive international response as permanent members of the UNSC. A UN Secretary General-mandated fact-finding mission arrived in Beirut only 11 days after the killing. Alongside this investigation and with Lebanese governmental approval, UNSC Resolution 1595 (UNSC 2005) established, ‘an international independent investigation Commission ... [UNIIIC] based in Lebanon to assist the Lebanese authorities in their investigation of all aspects of this terrorist act, including to help identify its perpetrators, sponsors, organizers and accomplices’ (UNSC 2005a, 2).

While the UNIIIC gathered evidence, aligned domestic and international actors looked to an even more robust response in the form of an international tribunal through a jointly signed UN-Lebanon treaty (UNSC 2006a). Such a model would have emulated the standard hybrid tribunal model, which rests on state consent generating courts that comprise international and national judges adjudicating on offences under a combination of local and international norms. But normative interventions of this sort in deeply divided societies will inevitably trigger resistance. Thus, although the March 14 Prime Minister Saniora pursued the hybrid model, he faced political and institutional opposition from the March 8 camp, which resisted internationalization of the crime. First, March 8 ministers resigned from the government, charactering an international tribunal as ‘unconstitutional’ (Abiad 2005, 52), and then the March 8 House Speaker, Nabih Berri, suspended the Parliament, thus blocking the ratification of the UNSC agreement. In the face of this domestic impasse, the March 14 parliamentary alliance submitted a petition to the UN Secretary-General requesting the establishment of the Tribunal *without* Lebanon’s consent, whilst Saniora sought help from the Security Council. President Lahoud objected to these requests, deeming Saniora’s government as ‘illegitimate’ and, thus, unqualified to negotiate and sign international treaties (UNSC 2006b, 54; Mugarby 2008, 191).

Failing official Lebanese support, the STL was created by international imposition through UNSC Chapter VII Resolution 1757 (UNSC 2007). Five out of the 15 voting members (including Russia and China) abstained, reflecting a lack of international consensus.¹ UNSC Chapter VII action requires a case to be made for a, ‘threat to international peace and security’ as per Article 39 of the UN Charter, and although challenged – for example in the ICTY’s *Tadić* case (ICTY 1995) – the jurisdiction of previous tribunals considering (the international crimes of) genocide, war crimes and crimes against humanity were easy to characterize as threats to *international* peace and security. Arguably, the case in relation to Hariri’s killing is far harder to characterize as a threat to international peace and security, but the Resolution suggested that, ‘this terrorist act and its implications’ amounted to such a threat. Here, we see the significance of reframing the killing as terrorism with vague reference to its wider effects as an internationalizing move. While the UNSC noted that there was widespread agreement within Lebanon on the need for ‘justice’, ‘serious obstacles’ entail that this is only possible through an international tribunal. The underlying norm facilitating the intervention is that the cure for Lebanese incapacity rests on international intervention as a way to end to impunity, a norm which Lebanese supporters of the tribunal would advance to promote their case.

The Statute of the Tribunal is annexed to Resolution 1595 and establishes its normative and legal basis. Most crucial to our argument here is the nature of the STL’s jurisdiction,

which has, ‘primacy over the national courts of Lebanon’ (Article 4). The Tribunal was created without the formal consent of the Lebanese state and impinges on its sovereignty, which formed the normative and legal basis for domestic opposition to the tribunal. Furthermore, the Tribunal’s jurisdiction cannot be circumvented through the granting of amnesty (Article 6) or earlier domestic trials if deemed by the Tribunal to be partial, improper or acting as a shield from criminal responsibility within the STL’s remit (Article 5). Article 1 limits the Tribunal’s jurisdiction to the assassination itself and connected attacks between October 2004 and December 2005. Article 2 sets the applicable law as the Lebanese Criminal Code. This is unique as internationally-created tribunals tend to rest on international offences sometimes as supplemented by domestic offenses. Lebanon has funded 49 per cent of the Tribunal’s budget, which for the year of 2018 came to 28.8 million euros. This vast sum amounts to around half of the country’s justice budget in a context where ‘far more serious crimes remain unaddressed’ (Mugraby 2008, 172).

Political rivalries, normative contestation

Normative interventions, particularly when they are imposed on a divided society like Lebanon’s, generate normative contestation. In Lebanon, this was marked in the notable political discourse and debates surrounding the STL in the period 2005–11. Irrespective of whether they supported or rejected the international tribunal, Lebanese political actors had to stake a normative claim. The main political actors involved in the normative contestation were ones with political stakes in the system. Our analysis focuses on two major ones, Hizbullah and the Future Movement, which, in Lebanon’s consociational system, represent the two largest sectarian communities: the Sunnis and the Shi’as. These two actors were also the leaders of the two political coalitions that divided the country, March 8 (Hizbullah) and March 14 (Future Movement).

What is particularly salient in these contestations is how the political rivals interpreted the transmitted norms. While both March 8 and March 14 accepted the norms of individual criminal responsibility under international law and the need for an impartial investigation and trial procedure, normative contestations centred on three themes relating to how the Tribunal would affirm or weaken Lebanese sovereignty. Here we observe how normative interventions and contestations both shape and are shaped by a social order. First, March 14 characterized Lebanon’s judicial institutions as ‘weak’ and thus prone to political intervention; the establishment of an internationally-recognized tribunal could correct this incapacity and thus strengthen domestic institutions. Second, March 14 argued and hoped that the STL would act as a ‘deterrent’ for future assassinations and their resulting political instability. Notice here how these arguments dovetail with international justifications to establish the tribunal. Third, it argued that the STL’s mandate was ‘legal’ and Lebanon, as a founding member of the UN, should ‘abide’ by its resolutions and not be ‘isolated’ from the ‘international community’. For March 14 then, the STL as an intervention restores rather than undermines Lebanese sovereignty.

Conversely, March 8 contested these interpretations. First, it argued that the establishment of an international court was an infringement of Lebanon’s sovereignty, protected by international law. Second, the international drive to establish a tribunal, which has no precedent, was a ‘political’ act, aiming to isolate and de-legitimize Hizbullah and Syria

and to create '*fitna*' [sedition] in Lebanon. Third, the Tribunal was presented as 'unconstitutional and corrupt'.

Hizbullah's contestation of the tribunal intensified in 2009 when leaks to the press hinted at its involvement in the assassination of Hariri (Follath 2009). This galvanized the Islamic party into becoming the exemplar of domestic resistance against the Tribunal. Hizbullah has rejected the STL politically in the belief that it is an 'imperialist' tool for emasculating the 'resistance alliance' (Iran, Syria, and Hizbullah) in the Middle East.² This political stance reflects the armed political movement's realist perception of the international system. Born in the wake of Israel's invasion of Lebanon in 1982, Hizbullah has consistently defended Lebanon from Israeli attacks in the belief that international resolutions serve the strong, not the weak (such as Lebanese and Palestinians in its eyes). 'We live in a world of wolves: There is no international law', once angrily claimed Nassrallah.³ Despite that, Hizbullah could simply have refused to support Lebanon's delegation of judicial power to the Tribunal. It has not. Rather, the party's views of the STL have fluctuated from cautious resistance, to conditional collaboration and finally to outright opposition towards the Tribunal. Why is this the case, and why has Hizbullah engaged in a normative contestation regarding the STL as an instance of normative intervention?

Hizbullah's attitude towards the STL cannot be divorced from the Party's socialization process in Lebanon. Since 1990, this Islamic party has struggled to integrate itself into the Lebanese socio-political realm with the aim of legitimizing its resistance to Israel. It has participated in the Lebanese legislature (and since 2005 in the Lebanese government) and has also forged alliances to bolster its domestic power against Israel. This socialization process involved an ideological shift: relinquishing the idea of establishing an Islamic state in Lebanon and accepting Lebanese norms, including the consociational system and the national state; indeed, Hizbullah presented itself as the custodian of Lebanese sovereignty against Israeli and American interventions in the country (Saouli 2019). Thus, this actor's identity, political interest, and reputation have determined its resistance to the STL. When Hariri was killed in 2004, Hizbullah faced a predicament: refusing a purportedly fair international investigation (by UNIIIC) would threaten the party's relations with Sunnis in Lebanon, and hence endanger Hizbullah's domestic power, in addition to isolating Hizbullah as a 'rogue' non-state actor. Accepting it, on the other hand, would expose Lebanon to international forces, which the movement believes have an interest in defeating Hizbullah. Conversely, Hizbullah's opponents, in addition to hoping that international trials would bring justice, regarded the Tribunal as a useful political tool to eliminate Syrian influence in Lebanon, and thus extract concessions from Syria's ally, Hizbullah.

Rivalries over the STL dominated the discourse of Lebanese political actors in 2005–10. Our analysis in this section focuses on press conferences held by both actors. Press conferences attract public attention and offer opportunities for actors to advance their positions in an organized and concentrated manner. The choice of these samples illustrates important elements of our theoretical framework on normative intervention, namely: attempts of political actors to accommodate or resist norms, their struggle to shape and construct the public's perception in a 'communicative environment' (Payne 2001, 39; Sharman 2008), and how norms shape the political discourse and are equally shaped by it.

Through long televised conferences, Hassan Nassrallah, Hezbollah's leader, deployed normative and legal argumentation to *de-legitimize* the UNIIIC and the STL by deconstructing them as political and lacking professionalism, as such questioning the norm and expectation of international tribunals as impartial. Nassrallah held two conferences in 2010. He argued that UNIIIC's investigation, whose findings have formed the basis of the Tribunal's evidentiary arsenal, was 'political' and did not follow scientific-legal standards because it had overlooked alternative theories of the Hariri murder. The international investigators, he contended, had for five years focused on Syria and Hizbullah as the possible perpetrators without considering the possibility of Israeli involvement. Here, Nassrallah aimed to challenge the STL's impartiality. But, beyond mere denunciation, he then moved on to accuse Israel of the murder and presented what he considered as 'indicators' of evidence. Nassrallah, whom one journalist present described as 'an investigator, judge, and TV presenter', disclosed data intercepted from Israeli reconnaissance planes monitoring Hariri's palace in Beirut and the roads he routinely followed, especially in the period preceding his murder (Al-Manar 2011b). He then discussed the testimonies of several Lebanese agents collaborating with Israel, who had been tasked to gather intelligence on March 14 political leaders. Nassrallah argued that this did not amount to 'proof' of Israeli involvement, but by disclosing the data he aimed to question the investigators' focus on Syria and Hizbullah, and hence to delegitimise them as biased: 'if they were authentic investigators they would use our indicators to interrogate Israel, if they don't, then our political accusation of the STL will hold true'. Nassrallah not only challenged the STL's prosecutorial focus; he also tried to limit the internationalization of the investigation to protect what he regarded as Lebanese sovereignty. Instead, he promised to 'cooperate' with an, 'independent committee appointed by the [Lebanese] government' (Al-Manar 2011b). Hizbullah's aim was to challenge and ultimately undermine the 'legitimacy' of the international body's decisions and, hence, reduce the impact of the Tribunal's 'political' effects in Lebanon.

In reaction, Hizbullah's opponents suggested that Nassrallah's material was not legally compelling; however, they called upon the STL to present its own rebuttal. For example, Amin Gmeiyal, a March 14 leader, accused Hizbullah of wanting to get rid of the STL and, instead, asked Nassrallah to cooperate with the Tribunal, which Gmeiyal believed would help deter future political assassinations in Lebanon.

Unrelenting, Hizbullah resorted to other forms of discursive contestation to advance its case about the STL's illegitimacy. On 8 December 2010, Mohammad Raad, a Hizbullah MP, held a press conference in the Lebanese parliament. This choice of location suggests Hizbullah's desire to appear as a legitimate representative of the people, engaging in dialogue about the STL. Raad invited a retired judge (Saleem Jreisati) to provide a legal interpretation. For Raad, the presentation was a 'scientific and objective' analysis for the, 'public in Lebanon and the Arab and Muslim worlds'. Notwithstanding this aim, Raad's introduction was political, highlighting the 'threat' of the STL on Lebanon's sovereignty. The STL's creation, he contended, was imposed on Lebanon by great powers in the UNSC, 'bypassing the Lebanese state: it was smuggled in by an illegitimate [Saniora] government, without the ratification of the Parliament or the signature of the President'.⁴ He added that the petition raised by March 14 MPs to the UN had circumvented the Lebanese Parliament and was, according to Raad, 'a form of forgery' aiming to 'beg' the, 'highest international body [to intervene] for suspect domestic

and regional political reasons'. For Raad, the investigators' demand for the telecommunication data (2003–10), which the Lebanese government was willing to divulge, 'is very dangerous and infringes on Lebanese sovereignty whilst endangering national security'. The STL and UNIIIC, he cautioned, were political and lacked the legal standards that the international tribunal promises to ingrain in Lebanon.

To illustrate this, the speakers referred to successive leaks to the press as well as the 'false witnesses' debacle. Press leaks, which had accused Syria and Hizbullah of the crime, contended Raad, 'were intentional, and enabled [our] political rivals to employ it for political reasons ... and aimed to damage the resistance's [Hizbullah's armed wing] reputation'. This was characterized as an infringement of the legal principle of 'secrecy of the investigation', which, according to Jreisati, the international investigation had not respected. For Hizbullah, the leaks exacerbated political divisions in Lebanon, particularly sectarian tensions between Sunnis and Shiites, which it had been struggling to avoid.

The main goal of advancing these claims was to raise public doubts about the standards followed by international criminal bodies such as the STL. Raad claimed that, whilst external powers (especially the US and Israel) had promoted the STL's establishment, they have since abstained from cooperating with the investigation. Here, he relies on a particular framing of history to highlight how the US and Israel have rejected other international tribunals in fear of being held accountable for, 'crimes in Guantanamo, Iraq, Afghanistan and others, including Israeli crimes in Lebanon and Palestine ... especially the Sabra and Shatilla massacre'. But 'why', asked one journalist, 'did Hizbullah initially accept the establishment of the STL, while it now has all these reservations about it?' 'First because [of our concern] for stability', Raad responded, 'and, second, in the hope of reaching a national consensus regarding the STL' (Al-Manar 2011a).

Hizbullah's normative arguments raised doubts regarding the STL in the eyes of the Lebanese public, which in many ways diluted the potential effects of the normative intervention. Were Lebanese institutions weak and best served through international judicial protection? Would this strengthen Lebanese sovereignty? Such questions required a response from the STL's supporters. Two weeks later, March 14 MPs Samir Jisr and Hadi Houbeish, held another parliamentary conference entitled, 'The STL as a legal path to guarantee justice and generate the truth'. Jisr introduced the conference as a 'legal response to all the points raised by our colleague MP Raad'. Like Raad, Jisr started with a political prologue that sets the frame for a justification of the STL. 'In light of the continuing fears of political assassinations, which started in the civil war and which were transferred to Lebanese courts without any results', Jisr argued that:

It was natural for the opposition forces (March 14) to call upon the international community to carry out its responsibilities towards Lebanon and to request the establishment of an international investigation committee to expose the truth of this crime, after we have lost all our *trust* in the *abilities* of [Lebanese] authorities to deal with these crimes. (Saniora 2010)

Jisr then presented his narrative regarding the inability of Saniora's government to ratify the treaty, arguing that Saniora's government, which March 8 labelled as unconstitutional, was legitimate. Furthermore, Jisr added that the STL's establishment had not infringed upon Lebanese sovereignty as it emerged from the UN, an institution created

by a number of states including Lebanon, a ‘founding member’. The UN intervention through the STL, he argued, would help protect and buttress Lebanese sovereignty by deterring future assassinations.⁵ Jisr’s response highlights the urge to legitimise the international tribunal whilst offering a particular framing of sovereignty, which in this case cannot be stripped from Lebanon’s own political history.

Regarding the leaks to the press and the ‘false witnesses’, Hobeish noted that he supported the principle of secrecy of the investigation ‘but the STL cannot be responsible for press reports, which lack any evidence and which we are unclear about the source behind the information’. Hobeish relied on legal formalism to argue that the so-called false witnesses had presented their testimonies before an investigative committee not a judicial authority; hence, until they are examined by the STL, they lack a judicial basis. Jisr concluded by articulating a desire for the STL to prevent future political assassinations. Since Hariri’s assassination, ‘we have requested the truth for people’s safety; to prevent fear from dominating people’s minds and volition’ (14 March Organization 2010). This normative stance, which mirrors justifications advanced internationally for the creation of the STL, highlighted how international criminal justice norms could act as a deterrent against future assassinations and pave the way towards to real security.

Four years after its inception, the STL finally issued indictments for four Hizbullah members by sending arrest warrants to the Lebanese government on 30 June 2011.⁶ Hizbullah refused to hand over the suspects, recognize or collaborate with the STL. Such staunch opposition was only possible in the face of the STL’s *eroded* legitimacy in the eyes of Hizbullah’s supporters, which contestations over the STL had enabled, and in the context of Lebanon’s divided society which forms the basis on which political mobilization flourishes. If there had been widespread public agreement about the STL’s mandate and desirability, then it would have been extremely damaging for Hizbullah to oppose the arrest warrants. Perhaps to solidify further its characterizations of a harmful international tribunal, Nassrallah gave a televised speech to strengthen claims about the STL’s purported politicization and to present evidence about its alleged corrupt members. He accused several investigators and advisors in the STL (by citing names, and in some cases photos, and job description) to have *a priori* ‘prejudices’ against resistance movements fighting Israel. Most of these, he claimed, are ‘anti-terrorism experts’ and/or ‘intelligence agents for Western governments’.⁷ ‘Are these people qualified to interrogate Israel in relation to the murder?’ Nassrallah retorted. One example cited was Gerhard Lehman, a former vice-president of UNIIIC. Nassrallah alleged that Lehman received a ‘bribe’ to disclose information about the investigation. A video of Lehman receiving the bribe was broadcast at the conference.

Conclusion

Shortly after these debates, other regional developments would come to overshadow concerns about the STL. The Syrian civil war has eclipsed all other issues for Hizbullah and has shaped domestic political debates ever since (Saouli 2019). Meanwhile at The Hague, the main trial of the four co-accused *in absentia* preceded with far less engagement and debate on the part of Lebanese political entrepreneurs. For Hizbullah, the STL ceased to be an existential threat: the normative contestation it waged on the STL delegitimized the Tribunal, particularly in the eyes of its growing domestic socio-political base. For

supporters of the STL, its significance has been hard to sustain in the face of few tangible outcomes as well as ongoing regional crises. Thus, empirically, this normative intervention has stalled, but its lasting effects on the political landscape of Lebanon remains, especially in the way it has instructed political entrepreneurs to speak in increasingly legalized idioms. The creation of the STL has deepened Lebanon's political divisions, particularly among its pro-STL Sunnis and anti-STL Shias. The crisis generated by the STL provided yet another occasion in which to negotiate the meaning of Lebanese sovereignty.

We have argued that the framework of normative intervention is a useful approach not only for understanding this episode in Lebanese politics. Our case-study reveals that international norm diffusion in some cases, such as Lebanon, amounts to a normative intervention, which unlike approaches of norm diffusion, reveals a purposeful attempt by domestic and international actors to impose norms and institutions on another society to effect political change. Specifically, we have shown how in Lebanon's divided society, which has suffered from a series of political crises, normative intervention is likely to fail. The normative intervention, we argued, generates normative contestations, which enable actors to offer varying interpretations of norms that serve their own interests, identities, and reputations in a given social order. These contestations in the case of Lebanon have diluted the possible effects of the intervention. In particular, our study builds on and develops IR scholarship attentive to the importance of domestic culture and political contestation for (re)shaping international normative interventions.

This case has highlighted how a typically constructivist concern for norms can be wedded with an appreciation of the coercive dynamics at play when domestic actors (re)frame norms and institutions arising from UNSC Chapter VII imposition. Constrained by the vagaries of an international environment that has witnessed the rise of international criminal justice since the end of the Cold War, Lebanese political actors must now speak in particular, legalized idioms, all the while staking their claims to represent Lebanese sovereignty. Ultimately, both domestic and foreign supporters of the STL had two key objectives: to alter the domestic and regional balance of power through an assault on Hizbullah and Syria; and to strengthen domestic legal institutions and capacity through the paradoxical erosion of Lebanon's criminal jurisdiction by acculturation into international best practice. To date, the STL has failed to deliver on either of these counts: Lebanon's judicial and governmental institutions remain racked by division and paralysis and Hizbullah has retained its prominent political role within an uneasy regional setting of continuing Syrian and Iranian power. Although the STL was created with the aim of ending impunity in Lebanon and beyond, the scale of unaddressed atrocity crimes perpetrated next door in Syria underscores the extremely weak hold of international criminal responsibility norms for regional political actors. Rather than result in any concerted support for and institutionalization of international criminal justice norms, instead, we have shown how the STL and the resulting contestation over its creation as normative intervention has produced a sophisticated lesson in the arts of legalized debate for Lebanese political actors. In seeking to champion Lebanese sovereignty as either pro or contra the Tribunal, political entrepreneurs became exemplars of norms – as sovereignty either guaranteed or undermined by the STL. Given Lebanon's divided social fabric, this article provides a cautionary tale about the merits of normative intervention whether as an internationalized criminal tribunal in this case, or through other practices, such as constitution writing across postcolonial societies during and after conflict.

Notes

1. The Resolution had six co-sponsors: Belgium, Britain, France, Italy, Slovakia and the United States.
2. For Nassrallah, the STL constitutes external ‘aggression’, aiming to cause ‘sedition in Lebanon and is a plan that targets the resistance, Syria, and the region’:
<https://www.dw.com/ar/%D9%86%D8%B5%D8%B1-%D8%A7%D9%84%D9%84%D9%87-%D9%8A%D8%B1%D9%81%D8%B6-%D8%A7%D9%84%D9%82%D8%B1%D8%A7%D8%B1-%D8%A7%D9%84%D8%A7%D8%AA%D9%87%D8%A7%D9%85%D9%8A-%D9%88%D9%8A%D8%B3%D8%AA%D8%A8%D8%B9%D8%AF-%D8%AA%D8%B3%D9%84%D9%8A%D9%85-%D8%A7%D9%84%D9%85%D8%AA%D9%87%D9%85%D9%8A%D9%86-%D8%A7%D9%84%D8%A3%D8%B1%D8%A8%D8%B9%D8%A9/a-15206870> (accessed 2 March 2020).
3. ‘Al-ilaqat al-ilamiya—Hizbu’ Allah’.
4. Raad referred to Article 52 in the Lebanese constitution to back up his argument (Jiha 1998).
5. Jisr invokes the preamble of the Lebanese constitution and Chapter Seven of the UN Charter to advance his claim. He also cites the *Tadić* Case (ICTY 1995).
6. The original four accused were Salim Jamil Ayyash, Hussein Hassan Oneissi, Assad Hassan Sabra and Mustafa Amine Badreddine. Hassan Habib Merhi’s case was joined and was filed by the Prosecution as a consolidated indictment on 7 March 2014. Charges against Bedreddine were withdrawn upon reports of his death (12 July 2016). In its recent decision, the Tribunal found only Ayyash guilty of the charges (STL 2020).
7. One of whom is Robert Baer, a former CIA agent who works as an advisor for the STL’s general prosecutor. Nassrallah presented a letter written by Cassese, the former President of the STL, advising the Israeli government and claiming that he was a ‘friend of Israel, who considered resistance movements as terrorists’.

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Notes on contributors

Michelle Burgis-Kasthala is a Senior Lecturer in Public International Law with regional expertise in the Middle East.

Adham Saouli is a Senior Lecturer in International Relations with a focus on Middle East politics.

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